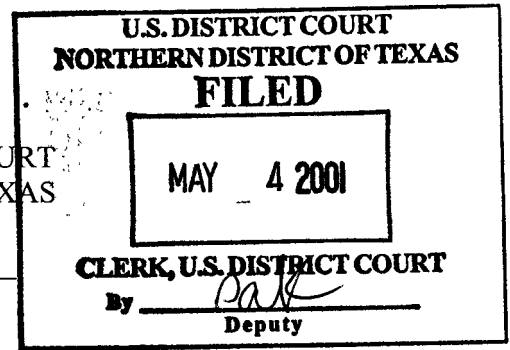


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



TRINIDAD "TRINI" GARZA and
PEDRO "PETE" VACA,

Plaintiffs,

v.

DALLAS INDEPENDENT SCHOOL
DISTRICT, et al.,

Defendants.

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Civil No. 3:01-CV-0602-H

MEMORANDUM OPINION AND ORDER

Before the Court are 1) Plaintiffs' Complaint and Application for Declaratory and Injunctive Relief, filed March 28, 2001; 2) Defendants' Original Answer, filed April 11, 2001; 3) Defendants' Motion to Dismiss and Brief in Support Thereof, filed April 11, 2001; and 4) Plaintiffs' Response to Defendants' Motion to Dismiss and Brief in Support Thereof, filed May 2, 2001.

At this juncture, the Court is considering only Plaintiffs' Application for Preliminary Injunctive Relief. *See* Complaint and Application for Declaratory and Injunctive Relief, filed March 28, 2001. On May 4, 2001, the Court heard argument on Plaintiffs' Application.

After considering the applicable law, the relevant pleadings and evidence, and the argument of counsel, the Court, for reasons stated from the bench in open court on May 4, 2001, was of the opinion that Plaintiffs' Application for Preliminary Injunctive Relief should be, and it was, **DENIED.**

I. Factual History

Plaintiffs are Trinidad "Trini" Garza and Pedro "Pete" Vaca. Defendants are the Dallas

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Independent School District (“DISD”), the DISD Board of Education (“Board”) and Ken Zornes, Roxan Staff, Lois Parrott, George Williams, Se-Gwen Tyler, Hollis Brashear, Jose Plata, Kathleen Leos and Ron Price in their official capacities as Trustees of the Board of Education of the Dallas Independent School District.

Plaintiffs sue Defendants seeking a declaration that DISD’s nine single member trustee districts, as currently districted, violate the United States Constitution and applicable federal and state law. They also seek an order requiring Defendants to redistrict in accordance with constitutional and statutory standards. And finally, they seek an injunction postponing the upcoming Board of Education election scheduled for May 5, 2001.

Plaintiffs’ specific allegations are 1) a “one person, one vote” violation of 42 U.S.C § 1983 and the Equal Protection Clause of the Fourteenth Amendment; 2) vote dilution under Section 2 of the Voting Rights Act of 1965; and 3) violation of § 1983 and the Fifteenth Amendment right to vote.

Pursuant to established DISD policy, the election of Trustees is held on the first Saturday in May of each year, this year scheduled for May 5, 2001. Early voting began on April 18, 2001.

The District is divided into nine single member trustee districts which are to be equitably apportioned. Each trustee-district is entitled to elect one member to the Board. By statute and Board policy, redistricting takes place “[n]o later than 90 days before the first election held on or after the 150th day following the day on which the District may take official notice of a United States decennial census, the Board shall apportion and redistrict the District...” TEX. EDUC. CODE 11.052. At the first election at which redistricting following a census is to be effective, all positions on the Board shall be filled.

The DISD Board of Trustees have begun their redistricting efforts in light of the 2000 Census data. Their efforts are illustrated in the Approval of Redistricting Contract, signed by the Board on

January 25, 2001 and in the DISD Resolution Adopting Criteria for Use in Redistricting 2001 Process, signed on April 4, 2001. Both of these documents were submitted as appendices to Defendants' Motion to Dismiss.

II. Preliminary Injunction Standard & Analysis

It is axiomatic that a plaintiff seeking a preliminary injunction must establish: 1) a substantial likelihood of success on the merits; 2) a substantial threat that the moveant will suffer irreparable injury if the injunction is denied; 3) that the threatened injury to plaintiff outweighs the threatened harm the injunction may do to defendant; and 4) that granting the preliminary injunction will not disserve the public. *Chisom v. Roemer*, 853 F.2d 1186, 1188 (5th Cir. 1988) (citing *Canal Authority of State of Florida v. Callaway*, 489 F.2d 567, 572 (5th Cir. 1974)).

The allegations as raised by Plaintiffs are certainly not taken lightly by this Court, as the federal courts have a long history of protecting the interests of discrete and insular minorities. *United States v. Carolene Products Co.*, 304 U.S. 144, 153 n.4 (1938). Plaintiffs in the case before the Court seek the protection of the federal court; this is a task which this Court approaches with the utmost solemnity. A federal court does possess the power to enjoin state elections, but the use of this power must be maintained in balance with the power of local government to self-govern. *Chisom*, 853 F.2d at 1189. Intervention by a federal court to postpone an election is extraordinary relief which is only granted in the most compelling circumstances. *Id.* Specifically, redistricting is a legislative task which the federal courts should make every attempt not to preempt. *See generally Wise v. Lipscomb*, 437 U.S. 535 (1978).

In the case at bar, the harm that would be suffered by the defendant were the election enjoined, would be the ability to self govern. TEX. EDUC. CODE § 11.051 specifically provides for redistricting with regard to the election of trustees. After redistricting, elections must be held to elect

a trustee from each of the nine districts. TEX. EDUC. CODE § 11.051(f). It appears that Defendants are attempting to comply with Texas' statutory provisions. Whether or not Defendants' actions are ultimately constitutional is an issue that the Court does not address at present. Enjoining the May 5, 2001 election would not permit the Board to continue to act in accordance with Texas statutes.

Furthermore, the court's enjoining this election would prevent all voters from exercising their right to vote. *Chisom*, 853 F.2d at 1191. A court should not enjoin an election if an injunction would place an unreasonable burden on the political entity—here the DISD. *Reynolds v. Sims*, 377 U.S. 533, 585 (1964). In the case at bar, granting the injunction the day before the election, and after early voting has been completed would disserve the public interest.

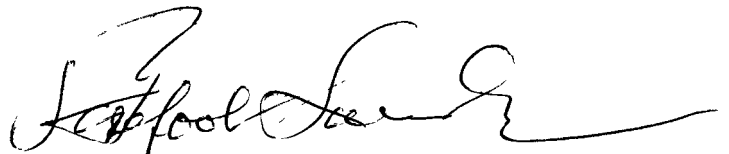
Judicial relief is appropriate only after the legislative body, DISD, fails to redistrict according to federal constitutional requirements in a timely fashion and after having the opportunity to do so. *Id.* Defendants should be allowed to proceed with the election and should be allowed to proceed with redistricting in accordance with TEX. EDUC. CODE § 11.051.

The Court finds that were the Court to enjoin the May 5, 2001 School Board election, the harms to both Defendants and the public would outweigh the threatened harms to Plaintiffs.

Plaintiffs' Application for Preliminary Injunctive Relief is **DENIED**.

SO ORDERED.

DATED: May 4, 2001.

A handwritten signature in black ink, appearing to read "Barefoot Sanders", written over a horizontal line.

BAREFOOT SANDERS, SENIOR JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS